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C O N F I D E N T I A L SECTION 01 OF 03 DILI 000201

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SUBJECT: TIMOR-LESTE: PROPOSED AMNESTY STIRS CONTROVERSY

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CLASSIFIED BY: Henry M. Rector, Deputy Chief of Mission, U.S.
Embassy Dili, Department of State.
REASON: 1.4 (b), (d)

SUMMARY

11. (C) Begin Summary. Following his commutation in May of the sentences of 94 criminals including former Interior Minister Rogerio Lobato, Timor-Leste President Jose Ramos-Horta proposed on June 30 a law that would extend amnesty to figures implicated by the UN's Commission of Inquiry (COI) in acts of violence committed during the political crisis of 2006. The draft law seeks to "foster national reconciliation" by granting those persons the right to submit voluntarily to "public audiences of reconciliation" to express remorse for their crimes, and contains provisions for reparations to victims. Potential beneficiaries include former Prime Minister Mari Alkatiri and Defense Chief Brigadier General Taur Matan Ruak. The draft law has been criticized by government figures, the Catholic Church, and NGOs. They argue that it undermines efforts to strengthen Timor's fragile justice sector, and has damaged President Ramos-Horta's public standing. President Ramos-Horta reaffirmed his commitment to the proposed amnesty during a meeting on August 4 with the U.S. and Australian ambassadors. However, the controversial draft law still needs a parliamentary sponsor, and may not go forward in its present form. End summary.

Content and Breadth of the Law

12. (U) On June 30, Timor-Leste President Jose Ramos-Horta proposed to political parties draft legislation that would extend an amnesty to persons implicated by the UN Commission of Inquiry and others in acts of violence perpetrated during the 2006 political crisis. The period covered under the law is April 28 through December 31, 2006. Beneficiaries of the amnesty would be subject to a "special community reconciliation process." The amnesty covers criminal offenses against the State, public order, public authority, life, physical integrity, general security of the people or goods, and property. It also covers offenses relating to the use, carriage and possession of weapons. The proposed law would create public fora where the

accused and victims can be heard; pay respect and compensation to the victims; and promote a "national dialogue and reconciliation." It also asserts that the courts are unable to handle these types of crimes; that victims are afraid and have not participated in the legal processes; that the crisis was a result of an "exceptional period;" and that "society is divided, requiring solutions in which all (victims and the perpetrators) win." The law further asserts that "formal justice does not resolve social conflicts and justice is not solely defined as criminal sanctions." Reparations for victims would vary according to the crime, and may include payments by the State to victims of up to \$10,000 and scholarships to children of the victims. Beneficiaries of the amnesty law might also be required to perform community service.

13. (C) For the draft to become law, a party caucus or group of parliamentarians first must sponsor the measure to open debate in the National Parliament. The measure must then be passed by a majority in Parliament, be promulgated by the President, and survive constitutional challenges. (Note: a similar effort to pass an amnesty measure in 2007 was struck down on a technicality by the Court of Appeals, Timor's highest court. End note.) PM Gusmao told the Ambassador on August 4 that he does not expect Parliament to approve an amnesty bill if limited only to acts committed during the 2006 period. Most parties are reluctant to associate themselves with the law and the measure might not survive a vote in its current form.

14. (C) During an interview with Poloff, the President's legal advisor Mario Spencer said the proposed law and the May 2008 pardons are intended to "erase the past; it never happened; why should the Timorese pay for crimes when Indonesians go free for the same crimes?" The May pardons included former Interior Minister Rogerio Lobato, convicted in 2007 of weapons distribution during the 2006 crisis, and Johnny Marques, a

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pro-integration militia member convicted of murdering a caravan of priests and nuns in Los Palos in 1999. These pardons were widely criticized by NGOs, the Catholic Church, and parliamentarians.

15. (SBU) United Nations Integrated Mission in Timor-Leste (UNMIT) Human Rights Officer Luis Gomez Orodea emphasized to us that UNMIT's mandate includes implementation of the 2006 COI report recommendations, including further investigation into criminal acts committed during the crisis. The UN therefore opposes the proposed measure. He added that UNMIT may "acquiesce without condemning the law if they remove arson, murder, and other crimes as subject to a special reconciliation process," but that approval of the law as written would generate condemnation by the UN.

Implications for 2006 Commission of Inquiry Cases

16. (C) There is increasing concern among political and civil society leaders that a culture of impunity is taking root in Timor-Leste. Sources interviewed argue that the country's three main leaders - Ramos-Horta, Prime Minister Gusmao, and opposition leader Mari Alkatiri - have a shared interest in absolving themselves of responsibility for violent incidents arising from their thirty-year struggle for power. United Nations Development Assistance Program (UNDP) International Prosecutor Luis Lamdin, assigned since March 2008 to the office assigned to the office of the Prosecutor General with the task of preparing the COI cases for prosecution, observed that the draft law is designed to grant impunity for the leaders, and that "people are afraid to testify against powerful people like Alkatiri or Taur Matan Ruak." According to Lamdin, the Timorese authorities "never understood that justice is essential for national stability." He highlighted that passage of the law remains uncertain, but warned that if successful it would "erase" his work. Expressing some frustration, he pointed to a desk with 10 piles of cases and complained that Monteiro is

keeping him "busy with other non-COI cases."

Parties Reluctant to Sponsor Law

17. (C) FRETILIN Members of Parliament Jose Teixeira and David Ximenes criticized the law, but warned that some in their party or in the Prime Minister's National Congress for Timorese Reconstruction (CNRT) party may consider sponsoring it because it may benefit some of their members. FRETILIN Secretary General Alkatiri told the Ambassador in July that Ramos-Horta's draft has many "technical problems" and considerable time would be needed to develop a consensus in support. He acknowledged the risks an amnesty would pose to the rule of law, but noted that reconciliation may be as worthy a goal as justice.

18. (C) Opposition National Unity Party (PUN) President Fernanda Borges echoed those criticisms, and observed that she is no longer amazed at Ramos-Horta's "messianic approach to forgiveness." Ms. Borges was the only MP to publicly question Ramos-Horta's credentials for the job of UN High Commissioner for Human Rights based on his "spotty record" in defending victim's rights. Reaction from within the ranks of the ruling Parliamentary Majority Alliance (AMP) coalition has been more muted, although Social Democratic Party (PSD) chairman Mario Carrascalao has publicly criticized the measure.

Catholic Church to Speak Out Against Impunity

19. (C) Father Filomeno Jacob, assistant to the Bishop of Dili, said that Ramos-Horta, Gusmao, and Alkatiri are "all one and the same, leading us towards a dictatorship through impunity at the expense of democracy; the leaders forgive one another because they have dark chapters in their past - we are hostages to them!" He harshly criticized the President's speeches as "cloaked in religiosity lecturing the Timorese people on the need to learn how to forgive." Father Jacob took issue with Ramos-Horta's description of Rogerio Lobato as "a man with a heart of gold," and Brigadier Taur Matan Ruak as "a national hero." This was at the heart of Timor's climate of impunity, he

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said: "national heroes earn special dispensations while the people receive none, and victims of crimes such as rape and murders of relatives are told to forget offenses." He said that the Catholic Church will soon be speaking out more openly against a growing climate of impunity, and explained that "up until now we have been reluctant to do so in order not to be accused of meddling in politics."

International Partners Concerned

110. (C) On August 4 the U.S. and Australian Ambassadors raised their concerns on the amnesty law to the President and Prime Minister. Ramos-Horta summed up his views on the law by saying, "I will not be part of a process that sends a national hero such as Taur Matan Ruak to jail." Responding to our concerns about the law's potential to further undermine Timor-Leste's justice sector, Ramos-Horta countered that "justice in Timor-Leste does not operate like in Norway, New Zealand or Iceland." He sought to associate his approach with those pursued in other post-conflict nations such as South Africa and Mozambique. Prime Minister Gusmao suggested the nation may want to consider an omnibus amnesty to include the entire period from 1974 to the present day. While acknowledging the dangers impunity might pose, Gusmao mulled that an amnesty could be useful to "end the past," overcome Timor's sense of victimhood and contribute to building the Timorese nation. Both the President and Prime Minister stated they appreciated our concerns and welcomed comments on the draft law.

¶11. (C) During a meeting with Poloff on August 4, the Portuguese deputy chief of mission explained that while her government was concerned about the draft amnesty law, its role as the historic colonial power constrains it from unilaterally delivering a tough message. She noted that President Ramos-Horta has a tendency to overstep his constitutional boundaries and ignore the independence of the judiciary.

Jury Still Out on Amnesty

¶12. (C) Two local human rights and justice NGOs explained Ramos-Horta's eagerness to extend amnesties and pardons as reflective of "the mindset of the older generation that justice undermines their integrity," and warned that this threatens efforts by international donors currently to strengthen assisting Timor-Leste's justice sector. Jose Luis Oliveira from the HAK human rights NGO summarized: "It is not acceptable to say that because we are Timorese our implementation of justice should be different than that in developed nations; the amnesty law demonstrates the leadership's failure to understand the people's right to justice." While the leadership seems determined to push for the law's success in the National Parliament, it remains to be seen whether the measure will survive a vote due to its deep unpopularity with the public.

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